

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION **FILED**
IN CLERK'S OFFICE

GERALD F. RICHARDS,

Plaintiff,

v.

SOUTHBRIDGE POWER & THERMAL,
LLC.

Defendant.

2004 APR 19 P 3: 22

U.S. DISTRICT COURT
DISTRICT OF MASS.

NOTICE OF REMOVAL

Defendant Southbridge Power & Thermal, LLC ("Southbridge"), through its attorney, Patrick Markey, Robinson Donovan, PC, pursuant to 28 U.S.C. §§ 1441(a) and (b) and 1446, gives notice of removal of this action from the Superior Court of the State of Massachusetts, County of Worcester, to this Court. In support of its Notice of Removal, Southbridge states as follows:

A. Jurisdiction

1. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) and this action may be removed to this Court by Southbridge pursuant to 28 U.S.C. § 1441(a) and (b), in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

2. On or about January 13, 2004, Plaintiff Gerald F. Richards filed his Complaint in the Superior Court of Massachusetts, County of Worcester, against Southbridge, alleging negligence and failure to warn. (The complaint is attached as Ex. A.)

FILED FEE PAID:
RECEIPT # 404298
AMOUNT \$ 150.00
BY DEPT CLERK RD
DATE 4-19-04

3. On or about March 19, 2004, Plaintiff served the Complaint on Southbridge.

4. Plaintiff Richards is an individual residing in Leeds, Maine.

5. Defendant Southbridge is a corporation organized and existing under the laws of the State of Delaware and has its principal place of business in Chicago, Illinois.

6. There is complete diversity of citizenship between the parties involved in this cause of action under 28 U.S.C. § 1332(a) because the plaintiff and the defendant are now, and were at the time of the commencement of this action, citizens of different states.

7. The amount in controversy is reasonably believed to exceed the sum of \$75,000, exclusive of interest and costs. In fact, the cover sheet to the Complaint specifically states that damages are approximately \$190,000. (*See* Ex. A.)

B. Notice of Removal is Procedurally Correct

8. This Notice of Removal is timely as it has been filed within 30 days of service of the Complaint on Southbridge as required by 28 U.S.C. § 1446(a).

9. Southbridge was served with Plaintiff's Complaint through service on CT Corporation Systems on March 19, 2004. (The Service of Process Transmittal Form is attached as Ex. B.)

10. Removal of this action is allowable under 28 U.S.C. § 1441(a) and (b).

11. Venue is proper in the United States District Court for Massachusetts under 28 U.S.C. § 1441(a) because this District Court embraces the place in which the removed action has been pending in the Superior Court of the State of Massachusetts, County of Worcester.

12. Copies of all process, pleadings and orders that have been served upon Southbridge are attached to this Notice as Exhibits A and B.

13. A copy of this Notice of Removal has been filed in the Superior Court of the State of Massachusetts, County of Worcester, and served upon plaintiff's counsel.

WHEREFORE, SOUTHBRIDGE POWER & THERMAL, LLC, requests that this action be removed to the United States District Court for Massachusetts.

Respectfully submitted,

SOUTHBRIDGE POWER AND
THERMAL, LLC.

By: 

Patrick J. Markey, Esq.

Robinson Donovan, P.C.

1500 Main Street – Suite 1600

Springfield, MA 01115

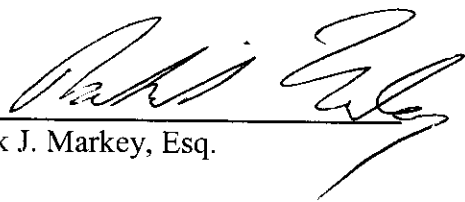
413-732-2301

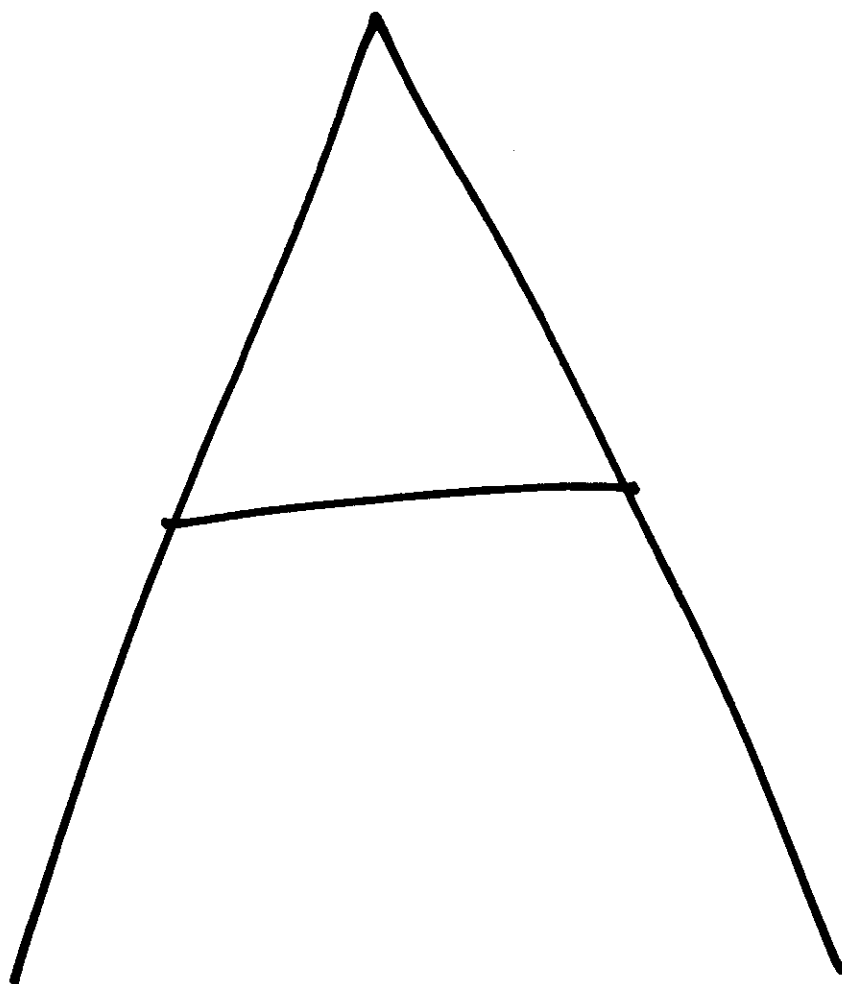
BBO No.: 568124

CERTIFICATE OF SERVICE

I, Patrick J. Markey, Esq., hereby certify that on this 19th day of April, 2004, I served a copy of the above upon the parties in the action by mailing, postage prepaid, to counsel, Charlotte E. Glinka, Keches & Mallen, P.C., 122 Dean Street, Taunton, MA 02780.

Subscribed under the penalties of perjury.


Patrick J. Markey, Esq.



COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

Superior Court
Department of the Trial Court
of the Commonwealth
Civil Action

No. 04-00082C

Gerald F. Richards

Plaintiff (s)

v.

Southbridge Power & Thermal, LLC

Defendant (s)

SUMMONS

* To the above-named Defendant: Southbridge Power & Thermal, LLC

You are hereby summoned and required to serve upon Charlotte E. Glinka
of Keganas & Mallen, P.C., plaintiff's attorney,
whose address is 122 Dean Street, Taunton, MA 02780
an answer to the complaint which is herewith served upon you, within 20 days after
service of this summons upon you, exclusive of the day of service. If you fail to do so,
judgement by default will be taken against you for the relief demanded in the complaint.
You are also required to file your answer to the complaint in the SUPERIOR COURT
Department of the Trial Court at WORCESTER either before service upon plaintiff's
attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13 (a), your answer must state as a counter-
claim any claim which you may have against the plaintiff which arises out of the
transaction of occurrence that is the subject matter of the plaintiff's claim or you will
thereafter be barred from making such claim in any other action.

Witness, SUZANNE V. DEL VECCHIO, Esquire, at Worcester, the 5th
day of March in the year of our Lord two thousand and
four

True copy Attest:

3/19/04 County Sheriff Suffolk County



Clerk

NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption.
If a separate summons is used for each defendant, each should be addressed to that particular defendant.

PLEASE CIRCLE TYPE OF ACTION INVOLVED: TORT — MOTOR VEHICLE TORT —
CONTRACT EQUITABLE RELIEF — CH. 93A — MEDICAL MALPRACTICE — OTHER.

*

NOTICE TO DEFENDANT: You need not appear personally in court to answer the complaint, but
if you claim to have a defense, either you or your attorney must serve a copy of your written
answer within 20 days as specified herein AND also file the original in the Clerk's Office, Superior
Court, Room 21.

COVER SHEETSuperior Court Department
County: Worcester

| | |
|---|--|
| PLAINTIFF(S) Gerald F. Richards | DEFENDANT(S) Southbridge Power & Thermal, LLC |
| ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE Charlotte E. Glinka KECHES & MALLIN, P.C. 122 Dean Street Taunton, MA 02780 Board of Bar Overseers number: | ATTORNEY (if known) BBO # 559117 (508) 822-2000 |

Origin code and track designation

Place an x in one box only:

| | |
|---|---|
| <input checked="" type="checkbox"/> 1. F01 Original Complaint | <input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X) |
| <input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F) | <input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X) |
| <input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X) | <input type="checkbox"/> 6. E10 Summary Process Appeal (X) |

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

| | | | |
|----------|--------------------------|-------|----------------------|
| CODE NO. | TYPE OF ACTION (specify) | TRACK | IS THIS A JURY CASE? |
| B04 | Negligence/PI | (F) | (X) Yes () No |

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS
(Attach additional sheets as necessary)

A. Documented medical expenses to date:

| | |
|------------------------------------|----------------------|
| 1. Total hospital expenses | approx. \$ 20,000.00 |
| 2. Total Doctor expenses | approx. \$ 10,000.00 |
| 3. Total chiropractic expenses | \$ |
| 4. Total physical therapy expenses | \$ |
| 5. Total other expenses (describe) | \$ |
| Subtotal | \$ 30,000.00 |

B. Documented lost wages and compensation to date \$ 150,000.00

C. Documented property damages to date \$

D. Reasonably anticipated future medical and hospital expenses approx. \$ 10,000.00

E. Reasonably anticipated lost wages \$

F. Other documented items of damages (describe) \$

G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

Due to the defendant's negligence, the plaintiff sustained a severe crush injury to his left arm on the job site. The plaintiff has had surgery but continues to have impairment and loss of function in the left arm. The plaintiff was unable to work as a millwright and welder for a period of more than two years. WHEREFORE, the plaintiff believes and avers that his damages in this case are likely to exceed \$25,000.00.

TOTAL \$ 190,000.00

CONTRACT CLAIMS
(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

TOTAL \$

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules of Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record Charlotte E. Glinka DATE: 1/12/04

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS.

SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO.

GERALD F. RICHARDS,
Plaintiff

v.

SOUTHBIDGE POWER &
THERMAL, LLC,
Defendant

)
)
)
)
)
)
)

COMPLAINT AND JURY CLAIM

PARTIES & FACTS

1. The plaintiff, Gerald F. Richards, is an individual residing in Leeds, Maine.
2. The defendant, Southbridge Power & Thermal, LLC ("Southbridge Power"), is a foreign corporation organized under the laws of the State of Delaware, with a principal place of business at 200 North LaSalle Street, Chicago, Illinois.
3. On and before January 23, 2001, and at all material times, the defendant, Southbridge Power, was the energy construction and management company and general contractor for a construction project located at the Southbridge Power Plant in Southbridge, Worcester County, Massachusetts.
4. The defendant, Southbridge Power, had responsibility for general supervision of work and for safety on the construction site.
5. On or about January 23, 2001, and at all material times, the defendant, by its agents, servants and/or employees, was present on the job site.
6. On or about January 23, 2001, and at all material times, Abington Constructors, Inc. contracted with the defendant to perform millwright work at the project located at or around the Southbridge Power Plant.
7. On or about January 23, 2001, and at all material times, the plaintiff was employed by Abington Constructors, Inc. to perform millwright and welding work at the project located at or around the Southbridge Power Plant.
8. On or about January 23, 2001, and at all material times, the plaintiff was lawfully on the premises of the construction project located at or around the Southbridge Power Plant.
9. On or about January 23, 2001, while performing welding work on the construction site at the Southbridge Power Plant, and due to the negligence of the defendant by and through its agents, servants and employees in failing to maintain adequate safety measures at the job site, the plaintiff was caused to sustain a severe and permanent crush injury when a large pipe fell on his left arm.

10. As a direct and proximate result of his injury, the plaintiff has suffered physical and mental pain and suffering, lost earnings/lost earning capacity, has incurred medical expenses for his care and treatment, and has suffered and an impairment to his ability to enjoy life and attend to his usual activities.
11. Upon information and belief, on or about January 23, 2001, and at all material times, the defendant Southbridge Power knew or reasonably should have known that work was being performed in an unsafe and unreasonable manner, including but not limited to failing to ensure that millwrights, including the plaintiff, were not exposed to unsafe working conditions.

COUNT I - NEGLIGENCE

12. The plaintiff repeats and incorporates the aforementioned paragraphs as if each were set forth here in its entirety.
13. The defendant, Southbridge Power, had a duty to direct, manage, supervise, and/or oversee the work performed at the Southbridge Power Plant, including but not limited to: ensuring that workers, including the plaintiff, had a safe work environment, and free of all foreseeable hazards.
14. The defendant, Southbridge Power, breached its duty when it failed to direct, manage, supervise, and/or oversee the work performed at the Southbridge Power Plant, including but not limited to: failing to ensure that workers, including the plaintiff, had a safe work environment, and free of all foreseeable hazards.
15. As a direct and proximate result of Southbridge Power's breach of its duties, the plaintiff was caused to suffer severe and permanent personal injuries.
16. On or about January 23, 2001, and at all material times, the plaintiff exercised due care and was free of any comparative negligence.

WHEREFORE, the plaintiff demands judgment against the defendant for the aforementioned personal injuries and damages, including but not limited to physical and mental pain and suffering, lost earnings, loss of earning capacity, and hospital and medical expenses, plus interest and costs.

COUNT II - FAILURE TO WARN

17. The plaintiff repeats and incorporates the aforementioned paragraphs as if each were set forth here in its entirety.
18. The defendant, Southbridge Power, had a duty to warn workers, including the plaintiff, of any unsafe and/or unreasonably dangerous working conditions.
19. The defendant breached its duty when it failed to warn workers, including the plaintiff, of the unsafe and/or unreasonably dangerous condition of the work area where they were performing work on the job site.
20. As a direct and proximate result of the defendant's breach of its duties as set out above in part, the plaintiff was caused to suffer and continues to be caused to suffer severe and permanent personal injuries, physical and mental pain and suffering, lost earnings/lost

earning capacity and an impairment in his ability to enjoy life and attend to his usual activities.

21. On or about January 23, 2001, and at all material times, the plaintiff exercised due care and was free of any comparative negligence.


WHEREFORE, the plaintiff demands judgment against the defendant for the aforementioned personal injuries and damages, including but not limited to physical and mental pain and suffering, lost earnings, loss of earning capacity, and hospital and medical expenses, including interest and costs.

JURY CLAIM

The plaintiff requests a jury trial on all claims as set forth herein.

Respectfully Submitted,
By his Attorneys,

KECHES & MALLIN, P.C.


CHARLOTTE E. GLINKA
BBO # 559117
122 Dean Street
Taunton, MA 02780
(508) 822-2000

Complaint

B



Service of Process Transmittal Form
Boston, Massachusetts

03/19/2004

Via Federal Express (2nd Day)

TO: Richard V Bass Senior VP/CFO
Nations Energy Holdings, LLC
150 South Wacker Drive
Suite 2950
Chicago, IL 60606

Phone: (312) 327-1100 ex:
FAX: (312) 327-1101

RE: PROCESS SERVED IN MASSACHUSETTS

FOR Southbridge Power & Thermal, LLC Domestic State: De

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

- 1. TITLE OF ACTION:** Gerald F. Richards, Pltf. vs Southbridge Power & Thermal LLC, Def.
- 2. DOCUMENT(S) SERVED:** Summons, Complaint
- 3. COURT:** Commonwealth of Massachusetts, Worcester Superior Court Dept. of the Trial Court
Case Number 04-00082C
- 4. NATURE OF ACTION:** Negligence resulting in personal injury
- 5. ON WHOM PROCESS WAS SERVED:** CT Corporation System, Boston, Massachusetts
- 6. DATE AND HOUR OF SERVICE:** By Process server on 03/19/2004 at 14:00
- 7. APPEARANCE OR ANSWER DUE:** Within 20 Days
- 8. ATTORNEY(S):** Charlotte E. Glinka
Keches & Mallen
122 Dean St.
Taunton, MA 02780

9. REMARKS:

SIGNED CT Corporation System
PER Christina Bonney
ADDRESS 101 Federal Street
Boston, MA 02110
SOP WS 0006162325

Information contained on this transmittal form is recorded for C T Corporation System's record keeping purposes only and to permit quick reference for the recipient. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information that can be obtained from the documents themselves. The recipient is responsible for interpreting the documents and for taking the appropriate action.

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS

GERALD F. RICHARDS

DEFENDANTS

SOUTHBIDGE POWER & THERMAL, LLC
FILED
 IN CLERKS OFFICE

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF LEEDS, ME
 (EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT DELAWARE
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

CHARLOTTE GLINKA, ESQ.
 KECHES & MALLEN, P.C.
 122 DEAN STREET
 TAUNTON, MA 02780 (508) 822-2000

ATTORNEYS (IF KNOWN)

PATRICK J. MARKEY, ESQ.
 ROBINSON DONOVAN, P.C.
 1500 MAIN STREET - SUITE 1600
 SPRINGFIELD, MA 01115 (413) 732-2301

II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION

(NOTE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY 28 U.S.C. § 1441, 28 U.S.C. § 1332 - PLAINTIFF ALLEGES PERSONAL INJURY AT A POWER PLANT IN MASSACHUSETTS OPERATED BY DEFENDANT. DEFENDANT REMOVES ON THE GROUNDS OF DIVERSITY AND AMOUNT IN CONTROVERSY EXCEEDING \$75,000.00.

V. NATURE OF SUIT

(PLACE AN X IN ONE BOX ONLY)

| CONTRACT | TORTS | | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|---|---|--|--|---|--|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Motor Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Ext. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury | PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Mass. Mispractices <input type="checkbox"/> 366 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Food & Drug <input type="checkbox"/> 630 Labor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 680 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 750 Other Labor Legislation <input type="checkbox"/> 761 Empl. Ret. Inc. Security Act | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Writ/Remed 28 USC 137 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HSA (1388) <input type="checkbox"/> 862 Black Lung (962) <input type="checkbox"/> 863 OWB (408(g)) <input type="checkbox"/> 864 OWB (408(g)) <input type="checkbox"/> 865 SBA Title XVI <input type="checkbox"/> 866 RSI (408(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 28 USC 7608 | <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Arrest <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates, etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Regulator Influenced and Corrupt Organizations <input type="checkbox"/> 510 Selective Service <input type="checkbox"/> 550 Securities/Commodities/Exchange <input type="checkbox"/> 675 Customer Challenge 12 USC 3610 <input type="checkbox"/> 691 Agriculture Act <input type="checkbox"/> 692 Economic Stabilization Act <input type="checkbox"/> 693 Environmental Matters <input type="checkbox"/> 694 Energy Allocation Act <input type="checkbox"/> 695 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Title to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 446 Other Civil Rights | PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights | | | |

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

- ☐ 1 Original Proceeding
☒ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23

DEMAND \$
 \$190,000.00

Check YES only if demanded in complaint.

JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

April 14, 2004

[Signature]

UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Gerald F. Richards v. Southbridge Power & Thermal, LLC

FILED
IN CLERKS OFFICE

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet (See local rule 40.1(a)(1)).

2004 APR 19 P 3:27

- ☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ☐ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.
- ☒ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.

U.S. DISTRICT COURT
DISTRICT OF MASS.
*Also complete AO 120 or AO 121
for patent, trademark or copyright cases

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒

7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES ☐ NO ☐

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME

Patrick J. Markey

ADDRESS

1500 Main Street, Suite 1600, Springfield, MA 01115

TELEPHONE NO

(413) 732-2301